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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,041	10/06/2003	Warner Cockerille	IGT1P052C1/P-544 CON	5272

22434 7590 02/13/2008

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EXAMINER	
PICH, PONNOREAY	
ART UNIT	**PAPER NUMBER**
2135	

MAIL DATE	DELIVERY MODE
02/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/680,041	COCKERILLE ET AL.	
	Examiner	Art Unit	
	Ponnoreay Pich	2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 November 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *27-72* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *27-43,46-64 and 67-71* is/are rejected.

7)☒ Claim(s) *44,45,65,66 and 72* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 27-72 are pending. Applicant's arguments were fully noted, but are moot in view of new rejections made below in response to the amendments.

Claim Objections

Claims 27, 48, 69, and 72 are objected to because of the following informalities:

1. In claims 27, 48, and 69, "the first process" should be recited instead of "the process" in all places "the process" is recited.
2. It is assumed that claim 72 should depend on claim 71 instead of 62.
3. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 27-40, 48-61, and 69-70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "substantially" in claims 27, 48, and 69 is a relative term which renders the claims indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. As such, it is unclear how similar the associated identifier of the one or more gaming software program has to be to the first identifier to be considered "substantially the same".

Claims 27-40 and 48-61are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: steps for determining which gaming software programs to select to compare with a selected process and steps for checking all the gaming software programs so that in the last step, it could be determined that none of the identified one or more gaming software programs includes the first portion of the selected first process. Without these steps, it is not possible to properly determine if a process executing in RAM corresponds to any gaming software program stored. Consider three processes executing in RAM: A, B, and C which corresponds to programs a, b, and c respectively that are stored in file storage devices. Going by what is currently recited in claims 27 and 48, it is possible to get an indication that the processes executing in RAM are invalid even though they are valid. For example, if process B were selected for verification, it might be compared to program a or c, which would cause an invalid notification to be generated.

Claims 40 and 61 recites "the list of processes" which lacks antecedent basis.

Claims not specifically addressed are rejected due to dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 27-32, 35-38, 40-43, 46-53, 56-59, 61-64, 67-69, and 71 are rejected under 35 U.S.C. 102(e) as being anticipated by Rowe (US 2003/0028779).

It is noted that while Rowe is assigned to the same assignee as the present application, it has a different inventive entity and Rowe's effective filing date is two dates before the effective filing date of the current application. As such, Rowe qualifies as a 102(e) reference.

Claims 27, 48, and 69:

As per claim 27, Rowe discloses:

1. Identifying one or more processes scheduled for execution on the gaming machine RAM (paragraphs 24 and 35).
2. Selecting a first process of the one or more processes for verification (paragraph 24).
3. Identifying a first identifier and current RAM location of the selected first process (paragraphs 36-37 and 39).
4. Identifying a first portion of the first process that does not change during execution of the first process (paragraph 41). *Rowe authenticate a process executing in RAM by comparing a generated signature of the process to a generated signature of a gaming software program that is stored either locally on the gaming machine or at a network location. The only way these two signatures can match is if they were generated from portions of the process and program*

which do not change. As such, this inherently implies identifying a first portion of the first process that does not change during execution of the first process.

5. Identifying one or more gaming software programs stored on one or more file storage devices, wherein the one or more gaming software programs each have an associated identify which is substantially the same as the first identifier (paragraph 46).
6. Selecting for inspection a first gaming software program from the one or more identified software programs, wherein the selected first gaming software program includes a second portion of executable code (paragraphs 27, 39, and 47).
7. Performing a comparison of the first portion of the first process and the selected gaming software in order to determine whether the selected first gaming software program includes the first portion of the selected first process (paragraphs 27-28 and 48). *The comparison is done indirectly by comparing of generated signatures.*
8. Generating a notification if it is determined that none of the identified one or more gaming software programs includes the first portion of the selected first process (paragraphs 48-49).

Claim 48 is rejected for much the same reasons as claim 27 because it is directed to a system comprising at least one processor (Fig 1A, item 103); at least one interface (Fig 1A, item 110); and memory (Fig 1A, items 106, 104, and 114), and is operable to perform the method of claim 48.

Claim 69 is rejected for much the same reasons as claim 27 because it is directed towards a system comprising at least one processor (Fig 1A, item 103); memory (Fig 1A, items 106, 104, and 114); and means for performing the method of claim 27. The recited means invoke 112, 6th paragraph, referring to software (i.e. a code comparator and code authenticator) which were also disclosed by Rowe (paragraph 24: code comparator and code authenticator) as performing the method of claim 27.

Claims 28 and 49:

Rowe further inherently discloses parsing the selected first gaming software program to distinguish between portions of the selected first gaming software program which do not change during execution of the gaming software program and portions of the selected first gaming software program which do change during execution of the gaming software program (paragraphs 39, 41, and 46).

As discussed above, in Rowe's invention, generated signatures are utilized to determine if a process executing in RAM is valid or not by comparing the generated signatures of the RAM processes to the generated signatures of software stored on one or more file storage devices. This implies having to parse both the processes executing in RAM and the stored software to identify portions of the processes and stored software which do not change during execution. Signatures generated from portions which do change will be different each time the signature is generated, thus would be useless in match determination.

Claims 29 and 50:

Rowe further discloses parsing the selected first process to distinguish between portions of the first process which do not change during execution of the process and portions of the first process which do change during execution of the process (paragraphs 39, 41, and 46).

As discussed above, in Rowe's invention, generated signatures are utilized to determine if a process executing in RAM is valid or not by comparing the generated signatures of the RAM processes to the generated signatures of software stored on one or more file storage devices. This implies having to parse both the processes executing in RAM and the stored software to identify portions of the processes and stored software which do not change during execution. Signatures generated from portions which do change will be different each time the signature is generated, thus would be useless in match determination.

Claims 30 and 51:

Rowe further discloses wherein the first portion of the selected process includes a first portion of executable code relating to the selected first process (paragraphs 39, 41, and 46).

Claims 31 and 52:

Rowe further discloses wherein the comparison of the first portion of the process and the selected first gaming software includes: comparing the first portion of the process and the second portion of executable code in order to determine whether the second portion of executable code includes the first portion of the selected first process (paragraph 48).

Claims 32 and 53:

Rowe further discloses wherein the first portion of the selected first process includes a first portion of executable code relating to the selected first process (paragraph 48); and

wherein the comparison of the first portion of the process and the selected first gaming software program includes comparing the first portion of executable code and the second portion of executable code in order to determine whether the second portion of executable code includes the first portion of executable code (paragraphs 39, 41, and 46).

Claims 35 and 56:

Rowe further discloses wherein the one or more gaming software programs are certified for execution on the gaming machine in one or more gaming jurisdictions by a regulatory entity within each of the gaming jurisdictions (paragraph 40).

Claims 36 and 57:

Rowe further discloses controlling a wager-based game played on the gaming machine (paragraph 29).

Claims 37 and 58:

Rowe further discloses wherein the wager-based game corresponds to a game selected from a group consisting of: a video slot game, a mechanical slot game, a lottery game, a video poker game, a video black jack game, a video card game, a video bingo game, a video keno game, and a video pachinko game (paragraph 29).

Claims 38 and 59:

Rowe further discloses wherein the one or more file storage devices include at least storage device selected from a group consisting of: a local file storage devices located at the gaming machine, and a remote file storage device located at a remote system (paragraphs 24 and 36-27).

Claims 40 and 61:

Rowe further discloses wherein the list of processes scheduled for execution on the gaming machine RAM is provided by an operating system (paragraph 35).

Claims 41, 62, and 71:

As per claim 62, Rowe discloses:

1. Identifying the first gaming software program as currently stored in the gaming device RAM, wherein the first gaming software includes a first portion of executable code stored in the gaming device RAM (paragraphs 24 and 35).
2. Identifying a second gaming software program stored on a file storage device, wherein the second gaming software includes a second portion of executable code stored on the file storage device (paragraphs 27, 39, and 46-47).
3. Verifying an authenticity of the first gaming software program by comparing the first portion of executable code to the second portion of executable code (paragraphs 27-28 and 48-49).

Claim 62 is rejected for much the same reasons as claim 41 because it is directed to a system comprising at least one processor (Fig 1A, item 103); at least one interface (Fig 1A, item 110); and memory (Fig 1A, items 106, 104, and 114), and is operable to perform the method of claim 62.

Claim 71 is rejected for much the same reasons as claim 41 because it is directed towards a system comprising at least one processor (Fig 1A, item 103); memory (Fig 1A, items 106, 104, and 114); and means for performing the method of claim 41. The recited means invoke 112, 6th paragraph, referring to software (i.e. a code comparator and code authenticator) which were also disclosed by Rowe (paragraph 24: code comparator and code authenticator) as performing the method of claim 41.

Claims 42 and 63:

Rowe further discloses parsing the first gaming software program to distinguish between portions of the first gaming software program which do not change during execution of the process and portions of the first gaming software program which do change during execution of first gaming software program (paragraphs 39, 41, and 46).

In Rowe's invention, generated signatures are utilized to determine if a process executing in RAM is valid or not by comparing the generated signatures of the RAM processes to the generated signatures of software stored on one or more file storage devices. This implies having to parse both the processes executing in RAM and the stored software to identify portions of the processes and stored software which do not change during execution. Signatures generated from portions which do change will be

different each time the signature is generated, thus would be useless in match determination.

Claims 43 and 64:

Rowe further discloses parsing the second gaming software program to distinguish between portions of the second gaming software program which do not change during execution of the process and portions of the second gaming software program which do change during execution of second gaming software program (paragraphs 39, 41, and 46).

In Rowe's invention, generated signatures are utilized to determine if a process executing in RAM is valid or not by comparing the generated signatures of the RAM processes to the generated signatures of software stored on one or more file storage devices. This implies having to parse both the processes executing in RAM and the stored software to identify portions of the processes and stored software which do not change during execution. Signatures generated from portions which do change will be different each time the signature is generated, thus would be useless in match determination.

Claims 46 and 67:

Rowe implicitly discloses wherein the first portion of the gaming software program is a portion of the first gaming software that does not change during execution of said first gaming software program (paragraphs 49, 41, and 46).

For signatures to be useful in authenticating the software executing in RAM, the signature must be generated from portions which does not change during execution. Only signatures generated from portions which do not change are reliably reproducible.

Claims 47 and 68:

Rowe further discloses wherein the gaming device corresponds to a gaming device selected from a group consisting of: a player tracking unit, a player tracking server, a game server, and a hand-held gaming device (paragraph 31).

Allowable Subject Matter

Claims 33-34, 39, 44-45, 54-55, 60, 65-66, 70, 72 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

While it is believed that the subject matter further recited in the above dependent claims is found in the prior art, Rowe was under common assignment as the present application at the time applicant's invention was made, thus cannot be used for obviousness rejection of these dependent claims since it is forbidden by 35 USC 103(c).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PONNOREAY PICH whose telephone number is (571)272-7962. The examiner can normally be reached on 9:00am-4:30pm Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ponnoreay Pich/
Examiner
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2/11/08